

LINGUISTIC SCHOOL BOARDS

A Guide to
understanding
the changes to
Quebec's public
school system



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The Education Program of Alliance Quebec strives to ensure the continued existence of a strong network of educational institutions to serve the English-speaking community of Quebec; to ensure that this community has access to, and the control and management of, a system of education and is represented in the decision-making process of the Ministry of Education.

Introduction

Quebec's Bill 107, the new Education Act, received assent in the National Assembly on December 23, 1988. Many of its 723 articles came into force on July 1, 1989. There were, however, some exceptions. Those sections of Bill 107 dealing with the reorganization of public school boards along linguistic lines did not come into effect.

The purpose of these sections is to update Quebec's *public* school board system. That system is presently split along religious lines with public Catholic and Protestant systems. Bill 107 is designed to realign boards along linguistic lines. In other words, the government wants to fund English and French school boards instead of Protestant and Catholic.

The sections of Bill 107 which came into force in 1989:

- ☞ make the school legally more independent of the School Board;
- ☞ set out the rights of students and adults to educational services;
- ☞ set out the rights and obligations of teachers;
- ☞ provide for the establishment of an orientation committee for each School;
- ☞ determine the form and composition of adult education centers;
- ☞ define the regulation-making powers of the Government and Minister of Education;

The sections of Bill 107 which we will be looking at in this booklet, and which will come into force on a date set by the government:

- ☞ divide the province into two groups of territories (one of territories for French language school boards and the other, of territories for English language school boards);
- ☞ maintain the right of the Commission des écoles catholiques de Montréal, the Protestant School Board of Greater Montreal, the Commission des écoles catholiques de Québec, and the School Board of Greater Québec to continue to exist;
- ☞ provide for the establishment of Provisional Councils for the new school boards;
- ☞ preserve the right of the Catholic or Protestant minority to establish a dissentient school board.

The Supreme Court Decision on Bill 107

In June of 1993, the Supreme Court of Canada released its decision on the appeal of Bill 107. The ruling said:

1. The Government may:
 - a) create denominationally neutral linguistic school boards
 - b) define the territories of the new linguistic school boards
 - c) reassign property and material resources.
2. The right to have dissentient school boards outside the municipal boundaries of the cities of Montreal and Quebec is constitutional.
3. The four denominational school boards of the cities of Montreal and Quebec cities are maintained. The government may alter the territories of these denominational school boards but to no less than the municipal boundaries of each of these cities unless another denominational board is created to serve the altered territory within the municipal boundaries. Enrollment in the denominational boards is limited to the denomination of the board (only Protestants to Protestant boards; only Catholics to Catholic boards).
4. The School Council of the Island of Montreal is maintained having as its primary role:
 - to borrow
 - to collect taxes
 - to distribute fundingfor the boards on the Island of Montreal.
5. The Catholic and Protestant committees of the Superior Council of Education are retained with a mandate covering, among others, moral and religious education programs and criteria governing personnel working with these programs.
6. Schools within linguistic school boards may have a denominational designation (Protestant/Catholic).

Note: Currently, schools within the public system have a denominational designation. This is retained until repealed.

The implementation of Bill 107

The Supreme Court ruling puts the reorganization of Quebec's school boards back in progress.

School Boards

Protestant school boards and Catholic school boards, as we know them, will cease to exist. The Quebec government will divide all Quebec into a number of territories each to be served by an English school board and a number of territories each to be served by a French school board.

There are four school boards which retain the right to remain confessional. They are the Commission des écoles catholiques de Montréal, the Protestant School Board of Greater Montreal, the Commission des écoles catholiques de Québec, and the School Board of Greater Quebec.

This right, however, is limited to the municipal boundaries of the city of Montreal and the city of Quebec respectively. Also, the enrolment in these confessional boards is limited to the confession of that board; Catholic or Protestant.

What does this mean? The government, for example, may alter the territory of the Protestant School Board of Greater Montreal such that it is restricted to the city of Montreal, excluding all other municipal territories currently being served by this Board (Outremont, Côte St. Luc, Ville d'Anjou, Roxboro, etc.) Also, this Protestant School Board may enrol only Protestants.

The city of Montreal, meanwhile, will also be served by an English (linguistic) school board(s).

Schools

Schools within linguistic school boards may have a denominational designation (Protestant or Catholic). This is also the case at present. A school which is now recognized as Catholic or Protestant shall retain this recognition until the Catholic Committee or the Protestant Committee of the Ministry of Education (these committees will continue to exist in the linguistic school system) repeals it of its own initiative or at the request of the provisional council or the new school board.

Confessional schools (Catholic or Protestant) may also exist within linguistic boards. It is from this that the concept of linguistic school boards with confessional guarantees comes.

Provisional Councils

A provisional council will be established for each of the new school boards. This council shall be responsible for taking measures leading to the operation of the new school boards, including the allocation of school buildings and equipment and reassignment of personnel. This must be carried out in co-operation with the other provisional councils concerned, or with confessional school boards where such is the case.

Every provisional council shall be composed of a number of commissioners elected by universal suffrage from every existing school board. Every existing school board must be represented by at least two commissioners. Proportional representation will be based on the pupil enrolments of existing school boards.

In addition to this, the provisional council will include at least two parent-commissioners representing the parents' committee of every existing school board.

The Minister shall rule on any dispute between the provisional councils and the existing school boards.

The Act respecting School Elections (Bill 106) applies to the election of the first commissioners of the new school board. On the date set, the rights and obligations of the provisional council become the rights and obligations of the new school board and thus the provisional council ceases to exist.

The Right to Dissent

Any number of persons may serve notice to the school board of their territory of their intention to establish a dissentient school board, Catholic or Protestant, as the case may be, provided:

They do not reside in the territory of a confessional school board;

They are of a religious denomination, Catholic or Protestant, different from that of the majority of persons entered on the school board's latest electoral list.

Timeline for Change

(This tentative projection is based on the government of Quebec maintaining July 1, 1996 as the date for the coming into force of the new school boards)

Phase	Responsibility	Dates
Report of the Comité sur la mise en place des commissions scolaires linguistiques	The Kenniff Committee	June 30, 1994
Modifications to the legislation (if required)	The National Assembly	Fall 1994
Adoption of decrees determining the territories of the new school boards	The Government	January/ February 1995
Establishment of Provisional Councils by existing school boards	Existing School Boards	March/ May 1995
Preparation of electoral lists	Provisional Councils	June/ October 1995
Serving notice of dissent on Provisional Councils	Persons of the minority religious population	November/ December 1995
Completion of work by Provisional Councils in preparation for the new school boards	Provisional Councils	Spring 1996
School board elections for new school boards	Provisional Councils	June 1996
Newly-elected commissioners take office	New School Boards	July 1, 1996

Important dates in Quebec Education History

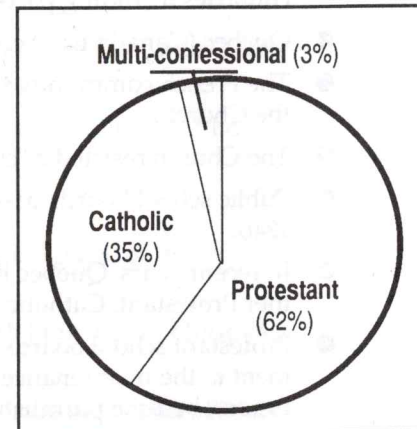
- 1876 - Denominational school rights enshrined in the British North America Act (Art. 93).
- 1961 - Québec announces a Royal Commission of Inquiry on Education (Parent Commission).
- 1964 - Establishment of Ministry of Education and Superior Council of Education.
- 1967 - Creation of the C.E.G.E.P.
- 1969 - Bill 63 gave parents freedom of choice as to the language of instruction for their children.
- 1969 - The University of Québec comes into being with branches in Montréal, Trois-Rivières, Chicoutimi and Rimouski.
- 1969 - Bill 27 reduces the number of school boards outside the Island of Montreal from 1,100 to 250.
- 1972 - Bill 71 reduces the number of school boards on the Island of Montreal from 33 to eight; six Catholic and two Protestant.
- 1974 - Bill 22 restricts access to English instruction to children demonstrating a working knowledge of English.
- 1977 - Bill 101, the *Charter of the French language*, restricted eligibility to instruction in English to children whose parents or siblings had received or were receiving instruction in English in Québec. Regulations were later modified to include the "Canada" clause.
- 1983 - Bill 40 proposed to give schools far greater autonomy and do away with school boards as we know them - the Bill was withdrawn.
- 1984 - Bill 3 proposed linguistic school boards and to reduce the constitutionally protected confessional school boards to what they had been in 1867. A court injunction led to the death of the Bill.
- 1988 - Bill 107 passed.
- 1993 - Bill 86, an act amending Bill 101, is passed including a few education provisions, none of which significantly widens access to English schools.
- 1993 - Supreme Court of Canada decision on the constitutionality of provisions of Bill 107 dealing with linguistic school boards.

Historical Information on Quebec's School System

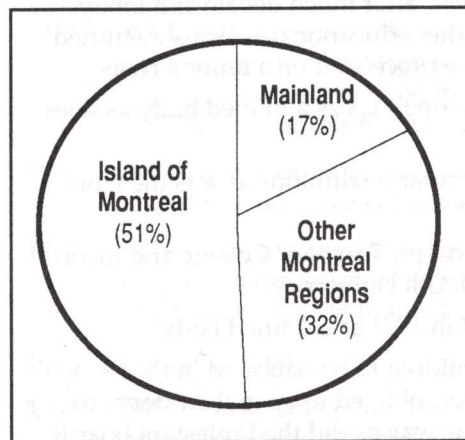
- The 1800's saw the development of secular public schools in a number of countries including parts of Canada.
- Quebec (Canada East) contemplated similar legislation.
- The French community regarded education as a religious matter best left to the Church.
- The Church resisted a "common" school system.
- Public school boards based on confessionality have existed in Quebec since 1846.
- In recent years, Québec has experienced a large influx of people who are neither Protestant, Catholic or, for that matter, Christian.
- Protestant school boards in Québec, notwithstanding their avowed commitment to the maintenance of a confessional system (guaranteed by the Constitution), became pluralistic institutions.
- The homogeneous nature of French Canada and its society allowed the development of a school system in Québec that was confessional (Catholic) in both organization and structure.
- The Parent Commission Report (Volume 3 - 1966) agreed that it was time to replace confessional school boards with unified ones. This is one of the few proposals made by the Commission that was, after much debate and lobbying, not retained. It should be noted that other educational reforms instituted during and since the Quiet Revolution have proceeded on a unified basis.
- The Ministry of Education, created in 1964, operates as a unified body as does the Superior Council on Education.
- In 1967, C.E.G.E.P.'s were established as secular institutions as was the University of Québec in 1969.
- MacDonald College was merged with St. Joseph Teachers' College and incorporated into the Faculty of Education of McGill University.
- The Island School Council was established in 1972 as a unified body.
- Bill 101, adopted in 1977, requires many children to be educated in the French language. It has seen French Catholic schools obliged to open their doors to many immigrant children in much the same way as did the Protestant boards and English Catholic schools in years gone by.

Quebec Public School Enrolment Statistics*

- In 1992-1993, there were 98,000 students enrolled in English-language public elementary and secondary schools in Quebec.
- 62% of these students were in Protestant school boards, 35% in Catholic boards, and 3% in multi-confessional boards (for example, in the Lower North Shore and in northern Quebec).
- There were no English enrollments in Catholic boards in the regions of Bas-Saint-Laurent, Chaudière-Appalaches, Estrie and Côte Nord; there were only small numbers in Catholic boards in the regions of Gaspésie and Laurentides.
- 51% of English enrollment in Quebec was on the Island of Montreal.
- 83% of English enrollment in Quebec was in the Montreal region: Island of Montreal, South Shore and the region north of Montreal.
- In English schools across Quebec, regardless of the type of school board, 38% of students indicated their religious affiliation as Catholic, 31% as Protestant, 24% as another religion, and 7% as no religion.



English School Enrollment
by Confessional Boards



English Students in Quebec
Public Schools by Region

- On the Island of Montreal, 39% of students in English schools were Catholic, 27% Protestant, and 25% were affiliated with other religions.
- Students with a religious affiliation other than Catholic or Protestant accounted for one-fifth of the English enrollments in six of the eleven regions.

* Data taken from a recent study by Dr. Norman Henchey
"Patterns of Enrolment in English Schools 1992-1993"

Excerpts from: Bill 107 (Education Act)

(Introduced 15 December 1987, Passage in principle 2 November 1988, Passage 23 December 1988, Assented to 23 December 1988)

EXPLANATORY NOTES

The bill provides for the division of the territory of Québec into French language school board territories and English language school board territories. The school boards will have jurisdiction over preschool, elementary and secondary education. The bill continues the existence of the confessional and dissentient school boards in their own territories and under their own names, and preserves the right of dissent of the Catholic or Protestant minorities in the territory of any non-confessional school board. It determines the composition and operating rules of the council of commissioners. These rules provide for representation of linguistic minorities by allowing an additional parents' representative for each of the primary and secondary levels on the council of commissioners of school boards which are not language based. It establishes committees of the school board, including the parents' committee and the advisory committee on services for handicapped pupils and pupils with social maladjustments or learning disabilities. It defines the functions and powers of the school board and contains special provisions regarding regional school boards and the Conseil scolaire de l'Île de Montréal, changing their functions and powers.

The bill continues the Protestant and Catholic school boards and regional school boards in the same territories and under the same names until the organization of the French language school boards and English language school boards is completed.

CHAPTER V - SCHOOL BOARDS - DIVISION I

Establishment of French Language and English Language School Boards

111. The Government shall by order, divide the territory of Quebec into two groups of territories: one of territories for French language school boards and the other, of territories for English language school boards. The territory of the Cree School Board, that of the Kativik School Board and that of the Commission scolaire du Littoral established by chapter 125 of the statutes of Québec, 1966-1967, are excluded from such division, however.

A school board shall be established in each territory.

The order shall determine the name of the school board.

The order comes into force on the date of its publication in the *Gazette officielle du Québec*.

112. School boards established pursuant to this division belong to only one of the following categories: French language school boards or English language school boards.

DIVISION II

Confessional and Dissident School Boards

§ 1. - Confessional school boards

122. The Commission des écoles catholiques de Montréal, the Protestant School Board of Greater Montreal, the Commission des écoles catholiques de Québec and the School Board of Greater Quebec shall continue to exist under this Act in their territories and under their names.

123. The Government may, by order, change the boundaries of the territory of a confessional school board.

The order comes into force on 1 July following the date of its publication in the *Gazette officielle du Québec* or any any later date indicated therein.

124. Before the coming into force of an order reducing the boundaries of the territory of a confessional school board, the confessional school board and the school boards, other than confessional school boards, whose territories wholly or partly coincide with the removed portion shall apportion among themselves the rights and obligations of the confessional school board.

Before the coming into force of an order extending the boundaries of the territory of a confessional school board, the confessional school board and the school boards, other than confessional school boards, whose territories wholly or partly coincide with the added portion shall apportion among themselves the rights and obligations of these school boards other than confessional school boards.

The Minister shall rule on any dispute among the school boards concerned except disputes respecting the transfer and reassignment of employees who are members of a certified association within the meaning of the Labour Code or employees for whom a regulation of the Government made under section 451 provides a special recourse. The Minister shall ensure that his decision does not deprive the confessional school board of the property necessary for its operation.

Section 121 applies to the transfer of ownership of immovables.

§ 2. - Dissident school boards

126. Any number of natural persons of full age who are residents in the territory of a school board, except the territory of a confessional school board, and who are of a religious denomination, Catholic or Protestant, different from that of the majority of

persons entered on the school board's latest electoral list, may serve on the school board a notice in writing informing it of their intention to establish a dissident school board.

Before serving the notice of dissent, the persons who wish to establish a dissident school board shall request the school board to recognize that they are of a religious minority, Catholic or Protestant.

DIVISION VI - FUNCTIONS AND POWERS OF THE SCHOOL BOARD

§ 1. - Preliminary provisions

205. Only those persons who, according to law, are entitled to receive instruction in the English language and who elect to come under the jurisdiction of an English language school board come under the jurisdiction of that school board.

206. Only those persons who belong to the same religious denomination as that of a confessional or dissident school board and who elect to come under the jurisdiction of the school board come under the jurisdiction of that school board.

CHAPTER IX - INTERIM ADMINISTRATION

DIVISION I - PERIOD OF APPLICATION

493. This chapter only applies during the transitional period beginning 1 July 1989 and ending 30 June of the year following the year of publication of the order respecting territorial division made pursuant to section 111.

DIVISION II - PROVISIONAL SCHOOL BOARDS

495. During the transitional period, every school board and regional school board, whether for Catholics or for Protestants, existing on June 30, 1989 is continued under this Act in its territory and under its name.

CHAPTER X - ORGANIZATION OF FRENCH-LANGUAGE AND ENGLISH-LANGUAGE SCHOOL BOARDS

DIVISION I - DEFINITIONS

509. In this chapter,

(1) "existing school board" means any confessional school board and any school board or regional school board, whether for Catholics or for Protestants, as it exists on the date of publication of the order respecting territorial division made pursuant to section 111;

(2) "new school board" means any French-language or English-language school board or regional school board established by the order respecting territorial division.

DIVISION II - PROVISIONAL COUNCIL

§ 1. - Establishment and composition

510. Existing school boards, except regional school boards, whose territory is wholly or partially within that of a new school board shall, within 45 days from the date of publication of the order respecting territorial division, agree upon the establishment and composition of a provisional council for the new school board which is not a regional school board.

The commissioners shall be notified by the person appointed in writing by the Minister, or by his delegate, by means of a public notice served in accordance with sections 397 and 398 not less than seven clear days before the day of the meeting to establish a provisional council.

Copy of the public notice is sent by registered or certified mail to every commissioner of the school boards contemplated in the first paragraph.

511. Every provisional council shall be composed of commissioners elected by universal suffrage and at least two commissioners representing the parents' committee of every existing school board other than a regional school board.

512. The composition of a provisional council is also subject to the following rules:

(1) every existing school board must be represented by at least two commissioners;

(2) the commissioners of each existing school board must be in proportion to the number of students who, on 30 September in the year preceding the year of publication of the order respecting territorial division, attend public schools at which the language of instruction is that of the new school board and which are situated in the territory of the new school board.

513. If the existing school boards fail to establish or to complete the establishment of a provisional council within the time prescribed in section 510, the Minister of Education shall provide therefore, within 30 days, under the rules established in this division.

§ 2. - Functions and powers

516. The provisional council is responsible for taking the preliminary measures leading to the operation of the new school board in its territory from 1 July in the year following the year of publication of the order respecting territorial division and the measures necessary for organizing the first school year commencing on that date.

517. The provisional council may, for its purposes, requisition staff from the existing school boards, but only after obtaining their authorization.

The provisional council shall appoint the director general of the new school board, subject to the norms of transfer and reassignment prescribed by regulation of the Government pursuant to section 451.

The director general shall take office upon his appointment and shall remain in office until a person is appointed by the council of commissioners of the new school board to hold that office.

518. The provisional council may, by by-law, delegate the exercise of certain of its powers and functions to the director general.

519. The provisional council, in co-operation with the other provisional councils concerned, or with the confessional school boards where such is the case, shall decide as to the allocation of the rights or ownership in the immovables of the existing school boards situated in the territory of the new school board.

Registration of the transfer of ownership of immovables shall be made in accordance with the provisions of section 121.

520. The provisional council shall establish a three-year plan of allocation and destination of immovables distributed to the new school board.

The provisional council shall then establish the list of schools and adult education centers operated by the new school board and issue deeds of establishment to them.

The deeds of establishment have effect from 1 July in the year following the year of publication of the order respecting territorial division.

A school established in premises or in immovables which, on 30 June of that year, had been placed at the disposal of a school recognized as Catholic or Protestant, shall retain this recognition until the Catholic committee or the Protestant committee repeals it of its own initiative or at the request of the provisional council or the new school board.

521. The provisional council, in co-operation with the other provisional councils concerned, or with confessional school boards, where such is the case, shall decide as to the allocation of the rights, other than the rights of ownership in immovables, and obligations of the existing school boards situated wholly or partly within the territory of the new school board.

522. The provisional council, in co-operation with the other provisional councils concerned, or with confessional school boards, where such is the case, shall establish a plan of reassignment of personnel of the existing school boards to the new school boards in accordance with the terms and conditions of transfer and reassignment that are contained in the applicable collective agreements, or, in the case of

personnel who are not members of the Government; every plan of reassignment is subject to the approval of the Minister.

523. In addition, the provisional council shall:

- (1) see to the establishment of the advisory committees of the new school board;
- (2) allocate the educational services among the schools and, as the case may be, among the adult education centers;
- (3) establish criteria for the enrollment of students and provide for the enrollment for the school year following the year of publication of the order respecting territorial division;
- (4) allocate financial resources among the schools;
- (5) establish the budget of the schools and the adult education centers;
- (6) adopt the budget of the new school board for the school year commencing in the year following that of the publication of the order respecting territorial division and submit it for the Minister's approval; collecting the school tax, the existing school board shall bear the additional costs incurred by the mailing of that notice.

527. All existing school boards, except the confessional school boards, cease to exist on 1 July in the year following the year of publication of the order respecting territorial division.

DIVISION V - MISCELLANEOUS AND TRANSITIONAL PROVISIONS

533. The Minister shall rule on any dispute between the provisional councils and the existing school boards except disputes respecting the transfer and reassignment of personnel who are members of a certified association with the meaning of the Labour Code or personnel for whom a regulation of the Government, enacted pursuant to section 451, provides a special recourse.

Where the dispute is between a provisional council and a confessional school board, the Minister shall ensure that his decision does not deprive the confessional school board of the property necessary for its continued operation.

534. The provisional council of every existing school board ceases to exist on 1 July in the year following the year of publication of the order respecting territorial division.

On that date, the rights and obligations of the provisional council become the rights and obligations of the new school board, and any act performed by the provisional council is binding upon the new school board as if it itself had performed it.